1946

File No. B. Cotton Statistics/46

Legal **DEPARTMENT**

B. **BRANCH**

P.17(E)/1946

Subject :—

A bill to provide for the Statistics of Cotton

L.A. Bill No XI of 1946

Bom. Act. No. XXVII of 1946.

File No. B. Cotton Statistics/46

Std. Sectt. Slip 24 B a.

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Office of the R.L.A.

It will be necessary for H.H., F.D., to decide that the proposed legislation is necessary. After he so decides, the papers are to be submitted to H.E. under paragraph (2)(1)(p) of Sec. G's Circular No.12/1 dated the 10th May 1937. The case has then under Instruction 24 of the Instructions issued under the Rules of Business to be brought before the Council of Ministers, and if the Council decides in favour of the legislation the draft Bill is to be prepared by the R.L.A. under Instruction 25. Attention of F.D. is also invited to P.& S.D. Circular dated 23rd May 1933 and P.& S.D. Circular No.996 dated 3rd September 1938.

2. The papers are therefore returned to F.D. without vetting the Bill at this stage.

Sd.

Assistant Remembrancer of Legal Affairs.

U.R.to F.D.,No.2737, dated the 11th April 1946.

MRP.
21/5/56.

No.1005-L.
Legal Department,
Council Hall, Poona, 30th September 1956.

From

P.N.Moos, Esquire, C.I.E., I.C.S.,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

Sir,

With reference to section 76 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of the Bill to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 26th July 1946 and the 13th September 1946, respectively.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entry 38 read with such other entries in List II for which the statistics would be utilised under the Act and entries 37 and 2 in the said List II and entries 2, 4 and 5 in List III of the Seventh Schedule to the Government of India Act, 1935.

4. As the provisions of clause 11 of the Bill are repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian Law relating to a concurrent matter under entry 5 in List III, it will be necessary to reserve the Bill for consideration of the Governor General with reference to

section --

MRA 2/58

section 107(2) of the Government of India Act, 1935.

5. I am also to forward herewith six copies of each of the items Nos.1 to 3 and two copies of item No.4 of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
3. Bill as read for the third time and passed by the Bombay Legislative Council.
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 26th July 1946 and of the Bombay Legislative Council dated the 13th September 1946.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. P.N.Moos,

Secretary to the Government of Bombay,
Legal Department.

Through the Secretary to the Government of Bombay,

Finance Department.

MRP.
21/5/56.

No.GS.3188.
Office of the Governor's Secretary
Government House.

From

D. Symington, Esquire, CIE. ICS.
Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislative Assembly/Council.

GANESHKHIND, 5th October 1946.

Subject:- THE BOMBAY COTTON (STATISTICS) BILL, 1946.

Sir,

With reference to the above Bill, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 26th July 1946 and 13th September 1946 respectively, I am directed to state, for the information of the Hon'ble the Speaker / President that as the provisions of clause 11 of the Bill are repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian Law relating to a concurrent matter under entry 5 in List III, it will be necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Act, to declare that he reserves the Bill for the consideration of the Governor-General.

I have the honour to be,
Sir,
Your most obedient servant,

Sd. D. Symington

Secretary to the Governor of Bombay.

No.GS.3189.
Ganeshkhind, 5th October 1946.

Copy forwarded with compliments to:-

The Secretary to Government, Legal Department, with reference to his letter No.1069-L, dated 30th September 1946.
The Secretary to Government, Finance Department, with reference to his endorsement No.6280/33-D, dated 1st October 1946.

By order of the Governor of Bombay,

Sd. D. Symington,
Secretary to the Governor of Bombay.

MRP.
21/5/56.

No.GS.4151.

Office of the Governor's Secretary
Government House

From

D. Symington, Esquire, CIE. ICS.
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Bombay, 13th November 1946.

Subject:- THE BOMBAY COTTON (STATISTICS) BILL, 1946.

Sir,

With reference to the correspondence ending with my endorsement No.GS.3189, dated the 5th October 1946, on the above subject, I am directed to forward herewith the authentic copy of the Bombay Cotton (Statistics) Bill, 1946, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd. D. Symington
Secretary to the Governor of Bombay.

MRP.
21/5/56.

BILLS.

A Bill to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No.243-L.
Council Hall, Poona, 19th July 1946.

Memorandum from the Finance Department dated the 19th July 1946.- Transferring for necessary action the papers relating to a Bill to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

RESOLUTION:- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 19th July 1946, as Bill No.XI of 1946.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette on the 22nd July 1946.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Original Sd. K.M.Chitnvis
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and S.O.R. and with a request that 230 Gazette copies of the Bill and S.O.R. may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department).

The Finance Department,
* The Oriental Translator to Government,
The Secretary to the Bombay Legislative Assembly,
} with a copy of the Bill and S.O.R.

*With five extra copies of the Bill.

MRP.
21/5/56.

Acts.

Publication of the Bombay Cotton (Statistics) Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No.8125.

Bombay Castle, 18th November 1946.

Letter to the Secretary to the Governor No.1069-L, dated the 30th September 1946.
from
Letter/~~from~~ the Secretary to the Governor No.GS.4151, dated the 13th November 1946:

"With reference to the correspondence ending with my endorsement No.GS.3189, dated the 5th October 1946, on the above subject, I am directed to forward herewith the authentic copy of the Bombay Cotton (Statistics) Bill, 1946, with His Excellency the Governor-General's assent signified thereon."

RESOLUTION:- The law should be published as Bombay Act No.XXVII of 1946 in the Bombay Government Gazette, dated the 18th November 1946.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department with reference to the Memorandum from that Department dated the 19th July 1946.

By order of the Governor of Bombay,

Original. Sd: S.W.Dhurandhar,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).

The Finance Department,
* The Oriental Translator to Government,
The Secretary to the Bombay Legislative Council,
The Secretary to the Bombay Legislative Assembly,
The Director of Publicity, Bombay,
} with a copy of the Act.

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*With five extra copies of the Act.

Bom. Act No XXVII of 1946

~~L. A. BILL No. XI OF 1946.~~

An Act to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

~~(As read for the third time and passed by the Legislative Assembly on the 26th July 1946)~~

~~(As read for the third time and passed by the Legislative Council on the 13th September 1946.)~~

WHEREAS it is expedient to facilitate the collection of statistics of stocks of Indian raw cotton in the Province; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Cotton (Statistics) Act, 1946.

(*2*) It extends to the whole of the Province.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) "cotton" means Indian raw cotton (including seed-cotton, lint and fly);

(*b*) "Director" means the Director of Agriculture, Province of Bombay;

(*c*) "owner" means the owner of a cotton ginning factory or a cotton pressing factory;

(*d*) "trader" means a person other than an owner, carrying on the business of buying or selling cotton for the purposes of gain or profit and includes—

(*i*) a manufacturer, or

(*ii*) an importer,

who carries on such business,

MO-III Bk H 750—1

(*iii*) a broker or commission agent who contracts for the sale or purchase of cotton for others and stocks cotton on their behalf;

(*e*) "year" means a year commencing on the 1st day of September;

(*f*) the expressions "cotton ginning factory" and "cotton pressing factory" have the meanings assigned to them by the Cotton Ginning and Pressing Factories Act, 1925. XII of 1925.

Delivery of yearly returns of cotton.

3. (*1*) Every trader and every owner shall on or before 15th September each year submit to the Director, through such officer as the Provincial Government may by notification in the *Official Gazette* from time to time specify, a return in the prescribed form of the quantity of cotton in his possession on the last day of the previous year:

Provided that the Provincial Government may, in any year by notification in the *Official Gazette*, fix any later date for the submission of returns.

(*2*) Every return submitted under sub-section (*1*) shall be signed by the person submitting it.

Right of access, inspection and search.

4. The Director and any person authorised by him in writing in this behalf shall have access to every relevant document, book of account or other record in the possession of a trader or owner and may at any reasonable time with or without notice to the trader or owner, as the case may be, examine and take copies of, or extracts from, the document, book of account or record for the purpose of testing the accuracy of any return made under section 3. The Director and person so authorised may ask any question and make any enquiry necessary for obtaining any information required for the aforesaid purpose and shall also have access to any premises where he has reason to believe that cotton is stocked.

Use of returns or information.

5. The Director may use returns made under section 3 and information obtained under section 4 for—

(*a*) compiling statistics required by the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923; XIV of 1923.

(*b*) such purposes in respect of the matters enumerated in List II of the Seventh Schedule to the Government of India Act, 1935, as the Provincial Government may direct. 26 Geo. 5, Ch. 2.

Restriction on publication of returns and information.

6. (*1*) No return, and no part of any return, and no information obtained for the purposes of this Act shall, without the previous consent in writing of the trader or owner concerned, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular cotton ginning or pressing factory or the business of a particular trader.

(*2*) Except for the purposes of a prosecution under this Act or under the Indian Penal Code, no person not connected XLV of 1860

with the checking of returns or the collection of information under this Act shall be permitted to see any return or information referred to in sub-section (*1*).

Penalties.

7. If any person—

(*a*) wilfully refuses or without lawful excuse neglects to deliver a return under section 3, or

(*b*) wilfully delivers or causes to be delivered any such return which he knows to be false, or

(*c*) refuses to answer or wilfully gives a false answer to any question or enquiry necessary for obtaining any information for the purposes of this Act, or

(*d*) impedes the right of access to a relevant document, book of account or other record, or the right of entry conferred by section 4,

he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues ; and in respect of a false return or answer the offence shall be deemed to continue until a true return or answer has been delivered or given.

Penalty for improper disclosure of information or returns.

8. Any person connected with the checking of returns or collection of information under this Act, who, otherwise than in the execution of his duties under this Act or for the purpose of the prosecution of an offence under this Act or under the Indian Penal Code, wilfully discloses any information given, or the contents of any return made, under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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Cognisance of offences.

9. No prosecution under section 7 shall be instituted except by or with the previous sanction in writing of the Director, and no prosecution under section 8 shall be instituted except by or with the previous sanction in writing of the Provincial Government.

Protection for acts done in good faith.

10. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Offence by corporation.

11. If the person contravening any of the provisions of this Act is a company or other body corporate, the secretary, manager or other principal officer managing the affairs of such company or body, as the case may be, shall be deemed to be guilty of such contravention.

Exemptions.

12. The Provincial Government may by general or special order exempt any trader or class of traders from the operation of this Act.

Power to make rules.

13. (*1*) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing powers, rules may be made under this section—

(*a*) prescribing the form in which a return under section 3 shall be delivered, and

(*b*) regulating the exercise of the right of access to books of account, records and documents and the right of entry conferred by section 4.

This Bill was read for a third time and passed by the Legislative Assembly of the Province of Bombay on the Twenty-sixth day of July 1946.

Poona,
5th August 1946.

(Signed) K.S.Firodea,
SPEAKER.

The above Bill which was passed by the Legislative Assembly of the Province of Bombay on the Twenty-sixth day of July 1946 was read for a third time and passed by the Legislative Council of the Province of Bombay without any amendments on the thirteenth day of September 1946.

Poona,
17th September 1946.

(Signed) Mangaldas M.Pakvasa,
PRESIDENT.

I assent in His Majesty's name to the Bill.

Dated
1946.

GOVERNOR.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XI OF 1946]

(As read for the third time and passed by the Legislative Assembly on the 26th July 1946).

(As read for the third time and passed by the Legislative Council on the 13th September 1946).

An Act to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay

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[Mr. V. L. MEHTA, M.L.A.]

MO-III Bk H 750—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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L. A. BILL No. XI OF 1946.

A Bill to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

(As published in the " Bombay Government Gazette " of 19th July 1946)

WHEREAS it is expedient to facilitate the collection of statistics of stocks of Indian raw cotton in the Province; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Cotton (Statistics) Act, 1946.

(*2*) It extends to the whole of the Province.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) " cotton " means Indian raw cotton (including seed-cotton, lint and fly);

(*b*) " Director " means the Director of Agriculture, Province of Bombay;

(*c*) " owner " means the owner of a cotton ginning factory or a cotton pressing factory;

(*d*) " trader " means a person other than an owner, carrying on the business of buying or selling cotton for the purposes of gain or profit and includes—

(*i*) a manufacturer, or

(*ii*) an importer,

who carries on such business,

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(*iii*) a broker or commission agent who contracts for the sale or purchase of cotton for others and stocks cotton on their behalf;

(*e*) "year" means a year commencing on the 1st day of September;

(*f*) the expressions "cotton ginning factory" and "cotton pressing factory" have the meanings assigned to them by the Cotton Ginning and Pressing Factories Act, 1925. XII of 1925.

Delivery of yearly returns of cotton.

3. (*1*) Every trader and every owner shall on or before 7th September each year submit to the Director, through such officer as the Provincial Government may by notification in the *Official Gazette* from time to time specify, a return in the prescribed form of the quantity of cotton in his possession on the last day of the previous year:

Provided that the Provincial Government may, in any year by notification in the *Official Gazette*, fix any later date for the submission of returns.

(*2*) Every return submitted under sub-section (*1*) shall be signed by the person submitting it.

Right of access, inspection and search.

4. The Director and any person authorised by him in writing in this behalf shall have access to every relevant document, book of account or other record in the possession of a trader or owner and may at any reasonable time with or without notice to the trader or owner, as the case may be, examine and take copies of, or extracts from, the document, book of account or record for the purpose of testing the accuracy of any return made under section 3. The Director and person so authorised may ask any question and make any enquiry necessary for obtaining any information required for the aforesaid purpose and shall also have access to any premises where he has reason to believe that cotton is stocked.

Use of returns or information.

5. The Director may use returns made under section 3 and information obtained under section 4 for—

(*a*) compiling statistics required by the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923; XIV of 1923.

(*b*) such purposes in respect of the matters enumerated in List II of the Seventh Schedule to the Government of India Act, 1935, as the Provincial Government may direct. 26 Geo. 5, Ch. 2.

Restriction on publication of returns and information.

6. (*1*) No return, and no part of any return, and no information obtained for the purposes of this Act shall, without the previous consent in writing of the trader or owner concerned, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular cotton ginning or pressing factory or the business of a particular trader.

(*2*) Except for the purposes of a prosecution under this Act or under the Indian Penal Code, no person not connected XLV of 1860

with the checking of returns or the collection of information under this Act shall be permitted to see any return or information referred to in sub-section (*1*).

Penalties.

7. If any person—

(*a*) wilfully refuses or without lawful excuse neglects to deliver a return under section 3, or

(*b*) wilfully delivers or causes to be delivered any such return which he knows to be false, or

(*c*) refuses to answer or wilfully gives a false answer to any question or enquiry necessary for obtaining any information for the purposes of this Act, or

(*d*) impedes the right of access to a relevant document, book of account or other record, or the right of entry conferred by section 4,

he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues; and in respect of a false return or answer the offence shall be deemed to continue until a true return or answer has been delivered or given.

Penalty for improper disclosure of information or returns.

8. Any person connected with the checking of returns or collection of information under this Act, who, otherwise than in the execution of his duties under this Act or for the purpose of the prosecution of an offence under this Act or under the Indian Penal Code, wilfully discloses any information given, or the contents of any return made, under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

XLV of 1860.

Cognisance of offences.

9. No prosecution under section 7 shall be instituted except by or with the previous sanction in writing of the Director, and no prosecution under section 8 shall be instituted except by or with the previous sanction in writing of the Provincial Government.

Protection for acts done in good faith.

10. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Offence by corporation.

11. If the person contravening any of the provisions of this Act is a company or other body corporate, the secretary, manager or other principal officer managing the affairs of such company or body, as the case may be, shall be deemed to be guilty of such contravention.

Exemptions.

12. The Provincial Government may by general or special order exempt any trader or class of traders from the operation of this Act.

Power to make rules.

13. (*1*) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing powers, rules may be made under this section—

(*a*) prescribing the form in which a return under section 3 shall be delivered, and

(*b*) regulating the exercise of the right of access to books of account, records and documents and the right of entry conferred by section 4.

STATEMENT OF OBJECTS AND REASONS.

Statistics of stocks of cotton held by the trade at the end of a season are at present collected on a voluntary basis. It has been found that these statistics are incomplete and unsatisfactory as a number of ginning and pressing factories and dealers in cotton do not furnish the required information. The importance of correct statistics of stocks of cotton held in the country in deciding any problem relating to cotton, particularly during the present post-war period, is self-evident. With a view to collecting accurate statistics of stocks of cotton, Government consider it to be expedient to make it compulsory for the owners of cotton ginning and pressing factories and all persons trading in cotton to declare the stocks of Indian raw cotton held by them on the 31st August of each year. It is necessary to give officers engaged in the collection of statistics powers of entry and inspection to enable them to check the accuracy and veracity of returns.

2. The information obtained must not be utilised except for the purpose of supplying statistics relating to cotton required by the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923, and such other purposes as Government may direct. No return or part of it should except with the consent of the person furnishing it be published in a manner that would reveal that it pertains to a particular factory or person. Unauthorised disclosure of information must be prohibited.

3. This Bill provides accordingly and makes a breach of its provisions punishable.

Dated 12th July 1946.

V. L. MEHTA.

Mo.m Bk II 491—2-

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XI OF 1946]

(As published in the "Bombay Government Gazette" of 19th July 1946)

A Bill to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay

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[Mr. V. L. MEHTA, M.L.A.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.